

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

**DAVID CICERO PUCKETT,**

**Plaintiff,**

**v.**

**RALPH TOLAND, *et al.*,**

## Defendants.

[illegible]

**) Case No. 1:07-cv-00760-VEH-RRR**

## MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on April 30, 2007, recommending that this action be dismissed for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). The plaintiff filed objections to the report and recommendation on May 3, 2007. He also seeks to amend the complaint in order to demand additional relief. (Doc. #7). The recommendation to dismiss, however, is based upon the statute of limitations and *res judicata*. Thus, the plaintiff's desired amendment would not cure the defects in the complaint. Accordingly, the plaintiff's motion to amend is **DENIED**.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and hereby is **ADOPTED** and the recommendation is **ACCEPTED**. Accordingly, the complaint

is due to be dismissed for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). A final order will be entered.

**DONE** this the 22nd day of May, 2007.

A handwritten signature in black ink, appearing to read "V. Emerson Hopkins", written over a horizontal line.

**VIRGINIA EMERSON HOPKINS**

United States District Judge